



This document is scheduled to be published in the Federal Register on 10/01/2015 and available online at <http://federalregister.gov/a/2015-24858>, and on FDsys.gov

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 102-117 and 102-118

[FMR Case 2015-102-2; Docket 2015-0014; Sequence 1]

RIN 3090-AJ59

Federal Management Regulation (FMR); Transportation Payment and Audit

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: GSA is proposing to amend the Federal Management Regulation (FMR), Transportation Payment and Audit, to clarify agency and Department of Defense (DOD) transportation payment and audit requirements. GSA is also proposing to amend relevant definitions as a result of these proposed amendments. The FMR is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

DATE: Submit comments on or before **[Insert date 60 days after date of publication in the Federal Register]**.

ADDRESSES: Submit comments identified by FMR Case 2015-102-2, Transportation Payment and Audit, by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching FMR Case 2015-102-2. Select the link "Comment Now" that corresponds with "FMR Case 2015-102-2, Transportation Payment and Audit". Follow the instructions provided on the screen. Please include your name, company name (if any), and "FMR Case 2015-102-2, Transportation Payment and Audit" on your attached document.

- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405. ATTN: Ms. Flowers/FMR Case 2015-102-2, Transportation Payment and Audit.

Instructions: Please submit comments only and cite "FMR Case 2015-102-2, Transportation Payment and Audit" in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Lois Mandell, Office of Government-wide Policy, at 202-501-2735. Please cite FMR Case 2015-102-2. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division (MVCB), 1800 F Street, NW., Washington, DC 20405, 202-501-4755.

SUPPLEMENTARY INFORMATION:

A. Background

Agencies are authorized to procure transportation services either through the Federal Acquisition Regulation (FAR) by utilizing a contract, or via 49 U.S.C. 10721 (for rail transportation), 49 U.S.C. 13712 (for surface transportation), and/or 49 U.S.C. 15504 (for pipeline transportation) by utilizing rate tenders. It is critical that agencies ensure that services received are properly charged and that the payment made is correct.

Over the past year, GSA, working with the Governmentwide Transportation Policy Council (GTPC) completed the first of a two-part phase reviewing FMR Part 102-118, Transportation Payment and Audit. The GTPC is composed of representatives from civilian agencies and the Department of Defense and provides guidance in the planning and development of uniform transportation policies and procedures.

The first phase focused on transportation prepayment and postpayment audits and reviewed FMR Part 102-118 Subparts A (General), D (Prepayment Audits of Transportation Services), and E (Postpayment Transportation Audits), resulting in this proposed rule.

The Travel and Transportation Reform Act of 1998 (Pub. L. 105-264) established agency statutory requirements for prepayment audits of Federal agency and DoD transportation expenses and GSA statutory authority for audit oversight to protect the interests of the Government.

This proposed rule clarifies and strengthens the regulations for agency compliance for transportation prepayment audits and postpayment audits.

The proposed rule also includes updates to definitions in 41 CFR part 102-117, Transportation Management, as a result of the proposed amendments to FMR part 102-118.

The second phase, beginning January 2015, will continue the review process for 41 CFR part 118, Transportation Payment and Audit Subparts A (General), B (Ordering and Paying for Transportation and Transportation Services), C (Use of Government Billing Documents), and F (Claims and Appeals Procedures).

B. Proposed Substantive Changes

GSA proposes to:

- Revise the definitions for "Agency", "Bill of lading", "Government bill of lading", "Transportation document", and "Transportation Service Provider", remove the term and definition of "Release/declared value", and add the term and definition "Declared value" in FMR Part

102-117; and to revise the definitions of the terms "Agency", "Bill of lading", "Document reference number", "Government bill of lading", "Government transportation request", "Offset", "Overcharge", "Postpayment audit", "Rate authority", "Reparation", "Standard Carrier Alpha Code", "Statement of difference", "Supplemental bill", "Transportation document", and "Transportation Service provider", remove the terms "Agency claim", "Transportation service provider claim", and "Virtual GBL (VGBL)", and add the terms "Claim" and "Declared value" in FMR Part 102-118 to ensure consistency.

- Strengthen agencies requirements and responsibilities of transportation prepayment audits and transportation postpayment audit, submission requirements to the GSA Transportation Audits Division, and the required information on all transportation documentation.

- Clarify GSA Transportation Audit roles and responsibilities.

C. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health

and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action, and therefore, will not be subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This proposed rule is not a major rule under 5 U.S.C. 804.

D. Regulatory Flexibility Act

These revisions are not substantive, and therefore, this proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The proposed rule is also exempt from the Administrative Procedure Act per 5 U.S.C. 553(a)(2), because it applies to agency management or personnel.

E. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

F. Small Business Regulatory Enforcement Fairness Act

This proposed rule is also exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates to agency management or personnel.

List of Subjects

41 CFR Part 102-117

Freight, Government property management, Moving of household goods, Reporting and recordkeeping requirements. Transportation.

41 CFR Part 102-118

Accounting, Claims, Government property management., Reporting and recordkeeping requirements, Transportation.

Dated: September 17, 2015.

Christine Harada,
Associate Administrator.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR parts 102-117 and 102-118 as follows:

PART 102-117—TRANSPORTATION MANAGEMENT

1. The authority citation for 41 CFR part 102-117 continues to read as follows:

Authority: 31 U.S.C. 3726; 40 U.S.C. 121(c); 40 U.S.C. 501, et seq.; 46 U.S.C. 55305; 49 U.S.C. 40118.

2. Amend § 102-117.25 by—

a. Revising the definitions of “Agency” and “Bill of lading”;

b. Adding, in alphabetical order, the definition “Declared value”;

c. Revising the definition of “Government bill of lading (GBL)”;

d. Removing the definition “Release/declared value”;
and

e. Revising the definitions of “Transportation document”, and “Transportation service provider (TSP)”.

The revised and added text reads as follows:

§ 102-117.25 What definitions apply to this part?

* * * * *

Agency means a department, agency, and independent establishment in the executive branch of the Government as

defined in 5 U.S.C. 101 et seq., and a wholly-owned Government corporation as defined in 31 U.S.C. 9101(3).

Bill of lading (BOL), sometimes referred to as a commercial bill of lading, but includes a Government bill of lading (GBL), means the document used as a receipt of goods, a contract of carriage, and documentary evidence of title.

* * * * *

Declared value, sometimes referred to as released value," means the assigned value of the cargo for reimbursement purposes and is stated in dollars. Declared value may be more or less than the actual value of the cargo. The declared value is the maximum amount that could be recovered by the agency in the event of loss or damage for the shipments of freight and household goods. The statement of declared value must be shown on any applicable tariff, tender, contract, bill of lading, or other document covering the shipment.

* * * * *

Government bill of lading (GBL) means the transportation document used as a receipt of goods, evidence of title, and a contract of carriage for Government international shipments (see Bill of Lading (BOL) definition).

* * * * *

Transportation document (TD) means any executed document for transportation service, such as a bill of lading, a tariff, a tender, a contract, a Government Transportation Request (GTR), invoices, paid invoices, any transportation bills, or other equivalent documents, including electronic documents.

* * * * *

Transportation service provider (TSP) means any party, person, agent, or carrier that provides freight, including household goods, or passenger transportation and related services to an agency.

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PART 102-118—TRANSPORTATION PAYMENT AND AUDIT

3. The authority citation for 41 CFR part 102-118 is revised to read as follows:

Authority: 31 U.S.C. 3726; 40 U.S.C. 121(c); 40 U.S.C. 501, et seq.; 46 U.S.C. 55305; 49 U.S.C. 40118.

4. Revise § 102-118.10 to read as follows:

§ 102-118.10 What is a transportation audit?

A transportation audit is a thorough review and validation of transportation related documents and bills. The audit must examine the validity, propriety, and conformity of the charges or rates with tariffs,

quotations, contracts, agreements, or tenders, as appropriate.

§ 102-118.15 [Amended]

5. Amend § 102-118.15 by removing "or people and/or" and adding ", people or" in its place.

6. Revise § 102-118.20 to read as follows:

§ 102-118.20 Who is subject to this part?

This part applies to all agencies (including the Department of Defense) and TSPs defined in § 102-118.35, and wholly-owned Government corporations as defined in 31 U.S.C. 101, et seq. and 31 U.S.C. 9101(3). Your agency is required to incorporate this part into its internal regulations.

7. Revise §§ 102-118.25 and 102-118.30 to read as follows:

§ 102-118.25 What must my agency provide to GSA regarding its transportation policies?

As part of the postpayment audit, GSA may request to examine your agency's transportation prepayment audit program and policies to verify the performance of the prepayment audit. GSA Transportation Audits Division may suggest revisions of agencies audit program or policies.

§ 102-118.30 Are Government-controlled corporations bound by this part?

This part does not apply to Government-controlled corporations and mixed-ownership Government corporations as defined in 31 U.S.C. 9101(1) and (2).

8. Amend § 102-118.35 by-

- a. Revising the definition "Agency";
- b. Removing the definition "Agency claim";
- c. Revising the definition "Bill of lading (BOL)";
- d. Adding, in alphabetical order, the definitions "Claim" and "Declared value";
- e. Revising the definitions "Document Reference Number (DRN)", "Government bill of lading (GBL)", "Government contractor-issued charge card", "Government Transportation Request (GTR)", "Offset", "Overcharge", "Postpayment audit", "Prepayment audit", "Rate authority", "Reparation", "Standard Carrier Alpha Code (SCAC)", "Statement of difference", "Supplemental bill", "Transportation document (TD)" "Transportation Service", and "Transportation Service provider (TSP)";
- f. Removing the definitions, "Transportation service provider claim" and "Virtual GBL (VGBL)"; and
- g. Revising the "Note" at the end of the section.

The revised and added text reads as follows:

§ 102-118.35 What definitions apply to this part?

* * * * *

Agency means a department, agency, or instrumentality of the United States Government (31 U.S.C. 101).

* * * * *

Bill of lading (BOL), sometimes referred to as a commercial bill of lading, but includes a Government bill of lading (GBL), means the document used as a receipt of goods, a contract of carriage, and documentary evidence of title.

* * * * *

Claim means—

(1) Any demand by an agency upon a Transportation Service Provider (TSP) for the payment of overcharges, ordinary debts, fines, penalties, administrative fees, special charges, and interest; or

(2) Any demand by the TSP for amounts not included in the original bill that the TSP believes an agency owes them. This includes amounts deducted or offset by an agency; amounts previously refunded by the TSP, which is believed to be owed; and any subsequent bills from the TSP resulting from a transaction that was prepayment or postpayment audited by the GSA Transportation Audits Division.

Declared value, sometimes referred to as "released value," means the assigned value of the cargo for

reimbursement purposes and is stated in dollars. Declared value may be more or less than the actual value of the cargo. The declared value is the maximum amount that could be recovered by the agency in the event of loss or damage for the shipments of freight and household goods. The statement of declared value must be shown on any applicable tariff, tender, contract, bill of lading, or other document covering the shipment.

Document reference number (DRN) means the unique number on a bill of lading, Government Transportation Request (GTR), or transportation ticket used to track the movement of shipments and individuals.

* * * * *

Government bill of lading (GBL) means the transportation document used as a receipt of goods, evidence of title, and a contract of carriage for Government international shipments (see Bill of lading (BOL) definition).

Government contractor-issued charge card means the charge card used by authorized individuals to pay for official travel and transportation related expenses for which the contractor bills the employee. This is different than a centrally billed account paying for official travel

and transportation related expenses for which the agency is billed.

Government Transportation Request (GTR) means a Government document used to procure common carrier transportation services. A common carrier is a carrier offering its services at published rates to all persons for interstate transportation. The document obligates the Government to pay for transportation services provided.

Offset means something that serves to counterbalance or to compensate for something else. These are funds owed to a TSP that are not released by the agency but instead used to repay the agency for a debt incurred by the TSP.

* * * * *

Overcharge means those charges for transportation that exceed those applicable under the executed agreement for services such as bill of lading (including a GBL), contract, rate tender or a GTR.

Postpayment audit means an audit of transportation billing documents, and all related transportation documents after payment, to decide their validity, propriety, and conformity of rates with tariffs, quotations, agreements, contracts, or tenders. The audit process may also include subsequent adjustments and collection actions taken against a TSP by the Government (31 U.S.C. 3726).

Prepayment audit means an audit of transportation billing documents before payment to determine their validity, propriety, and conformity of rates with tariffs, quotations, agreements, contracts, or tenders (31 U.S.C. 3726).

* * * * *

Rate authority means the document that establishes the legal charges for a transportation shipment. Charges included in a rate authority are those rates, fares, and charges for transportation and related services contained in tariffs, tenders, contracts, bills of lading, and other equivalent documents.

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Reparation means a payment to or from an agency to correct an improper transportation billing involving a TSP. Improper routing, overcharges, or duplicate payments may cause such improper billing. This is different from a payment to settle a claim for loss and damage.

Standard Carrier Alpha Code (SCAC) is the unique four-letter code used to identify American-based motor transportation companies assigned by the National Motor Freight Traffic Association, Inc. Their website address is <http://www.NMFTA.org>.

Statement of difference means a statement issued by an agency or its designated audit contractor during a prepayment audit when there is a discrepancy of the TSP amount billed the agency to the TSP proper amount for the services. This statement tells the TSP on the invoice the amount allowed and the basis for the proper charges. The statement also cites the applicable rate references and other data relied on for support. The agency issues a separate statement of difference(s) for each transportation transaction.

Supplemental bill means the bill for services that the TSP submits to the agency for additional payment of the services provided.

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Transportation document (TD) means any executed document for transportation service, such as a bill of lading, a tariff, a tender, a contract, a GTR, invoices, paid invoices, any transportation bills, or other equivalent documents, including electronic documents.

Transportation service means service involved in the physical movement (from one location to another) of people, household goods, and freight by a TSP or a Third Party Logistics (3PL) entity for an agency, as well as activities directly relating to or supporting that movement.

Transportation service provider (TSP) means any party, person, agent, or carrier that provides freight, including household goods, or passenger transportation and related services to an agency.

Note to § 102-118.35: 15 U.S.C. 96, et seq., 49 U.S.C. 13102, et seq., and 41 CFR Chapter 302 Federal Travel Regulation, defines additional transportation terms not listed in this section.

9. Revise Subpart D to read as follows:

Subpart D-Prepayment Audit of Transportation Services

Sec.

AGENCY REQUIREMENTS FOR A TRANSPORTATION PREPAYMENT AUDIT PROGRAM

102-118.265 What is a prepayment audit?

102-118.270 Must my agency establish a transportation prepayment audit program, and how is it funded?

102-118.275 What must my agency consider when developing a transportation prepayment audit program?

102-118.280 Must all transportation payment records, whether they are electronic or paper, undergo a prepayment audit?

102-118.285 What must be included in my agency's transportation prepayment audit program?

AGENCY REQUIREMENTS WITH TRANSPORTATION SERVICE PROVIDERS

102-118.290 Must my agency notify the TSP of any adjustment to the TSP bill?

- 102-118.295 Does my agency transportation prepayment audit program need to establish appeal procedures?
- 102-118.300 What must my agency do if the TSP disputes the findings and my agency cannot resolve the dispute?
- 102-118.305 What information must be on all transportation payment records that have completed my agency's prepayment audit?
- 102-118.310 What does the GSA Transportation Audits Division consider when verifying an agency prepayment audit program?
- 102-118.315 How does my agency contact the GSA Transportation Audits Division?
- 102-118.320 What action should my agency take if the agency's transportation prepayment audits program changes?

AGENCY CERTIFYING AND DISBURSING OFFICERS

- 102-118.325 Does establishing an agency Chief Financial Officer-approved transportation prepayment audit program change the responsibilities of the certifying officers?
- 102-118.330 Does a transportation prepayment audit waiver change any liabilities of the certifying officer?
- 102-118.335 What relief from liability is available for the certifying official under a transportation postpayment audit?
- 102-118.340 Do the requirements of a transportation prepayment audit change the disbursing official's liability for overpayment?
- 102-118.345 Where does relief from transportation prepayment audit liability for certifying, accountable, and disbursing officers reside in my agency?

**EXEMPTIONS AND SUSPENSIONS OF THE MANDATORY TRANSPORTATION PREPAYMENT
AUDIT PROGRAM**

- 102-118.350 What agency has the authority to grant an exemption from the transportation prepayment audit requirement?
- 102-118.355 How does my agency apply for an exemption from a transportation prepayment audit requirement?
- 102-118.360 How long will GSA take to respond to an exemption request from a transportation prepayment audit requirement?
- 102-118.365 Can my agency renew an exemption from the transportation prepayment audit requirements?
- 102-118.370 Are my agency's prepayment audited transportation documentation subject to periodic postpayment audit oversight from the GSA Transportation Audits Division?
- 102-118.375 Can GSA suspend my agency's transportation prepayment audit program?

Subpart D-Prepayment Audit of Transportation Services

AGENCY REQUIREMENTS FOR A TRANSPORTATION PREPAYMENT AUDIT PROGRAM

§ 102-118.265 What is a prepayment audit?

Prepayment audit means a review of transportation documentation before payment to determine their validity, propriety, and conformity of rates with tariffs, quotations, agreements, contracts, or tenders. Prepayment auditing by your agency will detect and eliminate billing errors before payment (31 U.S.C. 3726).

§ 102-118.270 Must my agency establish a transportation prepayment audit program, and how is it funded?

(a) Yes, under 31 U.S.C. 3726, your agency is required to establish a transportation prepayment audit program. GSA recommends your agency's Chief Financial Officer (CFO) approve the prepayment audit program.

(b) Your agency must pay for the prepayment audit program from those funds appropriated for transportation services.

§ 102-118.275 What must my agency consider when developing a transportation prepayment audit program?

(a) Your agency's transportation prepayment audit program must consider all of the methods that your agency uses to order and pay for passenger, household goods, and freight transportation to include Government-issued credit cards (see § 102-118.35 for definition of Government issued credit cards).

(b) Each method of ordering transportation and transportation services for passenger, household goods, and freight transportation may require a different kind of prepayment audit process. The manner in which your agency orders or procures transportation services determines how and by whom the bill for those services will be presented. Your agency should ensure that each TSP bill or employee

travel voucher contains enough information for the prepayment audit to determine which contract or rate tender is used and that the type and quantity of any additional services are clearly delineated.

(c) The prepayment audit cannot be conducted by the same firm who is providing transportation services for the agency, such as a move manager. Contracts with charge card companies that provide prepayment audit services are a valid option. The agency can choose to—

- (1) Create an internal prepayment audit program;
- (2) Contract directly with a prepayment audit service provider;
- (3) Use the services of a prepayment audit contractor under GSA's multiple award schedule covering audit and financial management services; or
- (4) Use a Third-Party Payment System or charge card company that includes prepayment audit functions, such as Syncada and Payport Express.

(d) An appeals process must be established for a transportation service provider (TSP) to appeal any reduction in the amount billed. It is recommended the agency establish an electronic appeal process that will direct TSP-filed appeals to an agency official for determination of the claim.

(e) A process to ensure that all agency transportation procurement and related documents including contracts and tenders are submitted to GSA Transportation Audits Division.

(f) Use of GSA Transportation Audits Division's Prepayment Audit Program template is recommended. If the template is not used, provide same information listed on the template to GSA Transportation Audits Division.

§ 102-118.280 Must all transportation payment records, whether they are electronic or paper, undergo a prepayment audit?

Yes, all transportation bills and payment records, whether they are electronic or paper, must undergo a prepayment audit with the following exceptions:

(a) Your agency's prepayment audit program uses a statistical sampling technique of the bills. If your agency chooses to use statistical sampling, all bills must be

(1) At or below the Comptroller General specified limit of \$2,500.00 (31 U.S.C. 3521(b)); and

(2) In compliance with the U.S. Government Accountability Office Using Statistical Sampling (GAO/PEMD-10.1.6), Rev. 1992, Chapter 7 Random Selection Procedures obtainable from <http://www.gao.gov>; or

(b) The Administrator of General Services grants your agency a specific exemption from the prepayment audit requirement which may include bills determined to be below your agency's threshold, mode or modes of transportation, or for an agency or subagency.

§ 102-118.285 What must be included in an agency's transportation prepayment audit program?

The agency prepayment audit program must include—

(a) The agency's CFO approval of the transportation prepayment audit program and submission to GSA Transportation Audits Division;

(b) Compliance with the Prompt Payment Act (31 U.S.C. 3901, et seq.);

(c) Assurance that each TSP bill or employee travel voucher contains appropriate information for the prepayment audit to determine which contract or rate tender is used and that the type and quantity of any additional services are clearly delineated;

(d) Verification of all transportation bills against filed rates and charges before payment;

(e)(1) A process to forward all transportation documentation (TD) monthly to the GSA Transportation Audits Division. GSA Transportation Audits Division can provide your agency a Prepayment Audit Program with a monthly

reporting template upon request at AskAudits@gsa.gov (see § 102-118.35 for definition of TD).

(2) GSA will store paid transportation bills under the General Records Schedule 9, Travel and Transportation (36 CFR Chapter XII, 1228.22), which requires keeping records for 3 years. GSA will arrange for storage of any document requiring special handling, such as bankruptcy and court cases. These bills will be retained pursuant to 44 U.S.C. 3309 until claims have been settled;

(f) Establish procedures in which transportation bills not subject to prepayment audit, such as bills for unused tickets and charge card billings, are handled separately and are also forwarded monthly to the GSA Transportation Audits Division;

(g) A minimum dollar threshold for transportation bills subject to audit;

(h) For transportation payments made through cost reimbursable contracts, the agency must include a statement in the contract or rate tender that the contractor shall submit to the address and in the electronic format identified for prepayment audit, transportation documents which show that the United States will assume freight charges that were paid by the contractor. Cost reimbursable contractors shall only submit for audit bills of lading

with freight shipment charges exceeding \$100.00. Bills under \$100.00 shall be retained on-site by the contractor and made available for on-site Government audits (Federal Acquisition Regulation (FAR) 52.247-67);

(i) Require your agency's paying office to offset, if directed by GSA's Transportation Audits Division, debts from amounts owed to the TSP within the 3 years (31 U.S.C. 3726 (b));

(j) Complete accurate audits of all transportation bills and notify the TSP of any adjustment within 7 calendar days of receipt of the bill;

(k) Establish an appeals process in the approved prepayment audit program for a TSP to appeal any reduction in the amount billed. It is recommended that the agency establish an electronic appeal process that will direct TSP-filed appeals to an agency official for determination of the claim. Your agency must complete the review of the appeal and inform the TSP either electronically or in writing the agency determination within 30 calendar days.

(1) Create accurate notices and agency procedures for notifying the TSPs with a detailed description of the reasons for any full or partial rejection of the stated charges on the invoice. An accurate notice must include the TSP's invoice number, the billed amount, Taxpayer

identification number (TIN), standard carrier alpha code (SCAC) or other agency unique identifier for the carrier, the charges calculated by the agency, the specific reasons including applicable rate authority for the rejection, and information of the appeal process; and

(2) Implement a unique agency numbering system to handle commercial paper and practices (see § 102-118.55 for information on administrative procedures your agency must establish).

AGENCY REQUIREMENTS WITH TRANSPORTATION SERVICE PROVIDERS

§ 102-118.290 Must my agency notify the TSP of any adjustment to the TSP bill?

(a) Yes, your agency must notify the TSP of any adjustment to the TSP bill either electronically or in writing within seven calendar days of the agency receipt of the bill.

(b) This notice must refer to the—

- (1) TSP's bill number;
- (2) Agency name;
- (3) TSP's TIN;
- (4) SCAC or other agency identifier for the carrier, such as the Department of Defense Activity Address Code (DODAC) number;
- (5) Document reference number (DRN);

- (6) Date invoice submitted;
- (7) Amount billed;
- (8) Date invoice was approved for payment;
- (9) Date and amount agency paid;
- (10) Payment location number and agency organization name;
- (11) Payment voucher number;
- (12) Complete contract, tender or tariff authority, including item or section number; and
- (13) Complete information on the agency appeal process.

(c) A TSP must submit claims to the agency within three years under the guidelines established in subpart F of this part.

§ 102-118.295 Does my agency transportation prepayment audit program need to establish appeal procedures?

Yes, your agency must establish, in the approved prepayment audit program, an appeals process for a TSP to appeal any reduction in the amount billed. It is recommended the agency establish an electronic appeal process that will direct TSP-filed appeals to an agency official for determination of the claim. Your agency must complete the review of the appeal and inform the TSP of the

agency determination within 30 calendar days of the receipt of the appeal, either electronically or in writing.

§ 102-118.300 What must my agency do if the TSP disputes the findings and my agency cannot resolve the dispute?

(a) If your agency is unable to resolve the disputed amount with the TSP, your agency must submit, within 30 calendar days, all relevant transportation documentation associated with the dispute, including a complete billing history and the appropriation or fund charged, to GSA Transportation Audits Division by email at AskAudits@gsa.gov, or by mail to:

U.S. General Services Administration,
1800 F St NW, 3rd Floor, Mail Hub 3400,
Washington, DC 20405.

(b) The GSA Transportation Audits Division will review the appeal of an agency's final, full, or partial denial of a claim and issue a decision within 30 calendar days of receipt of appeal.

(c) A TSP must submit claims to the agency within three years under the guidelines established in subpart F of this part.

§ 102-118.305 What information must be on all transportation payment records that have completed my agency's prepayment audit?

(a) The following information must be annotated on all transportation payment records, electronically or on paper, that have completed your agency's prepayment audit and for submission to GSA Transportation Audits Division:

- (1) The date the bill was received from a TSP;
 - (2) A TSP's bill number;
 - (3) Your agency name;
 - (4) DRN;
 - (5) Amount billed;
 - (6) Date invoice was approved for payment;
 - (7) Date and amount agency paid;
 - (8) Payment location code number and office or organization name;
 - (9) Payment voucher number;
 - (10) Complete contract, tender or tariff authority, including item or section number;
 - (11) The TSP's TIN;
 - (12) The TSP's SCAC or other agency identifier for the carrier, such as the DODAC number;
 - (13) The auditor's authorization code or initials;
- and
- (14) The date and copy of any statement of difference sent to the TSP.

(b) Your agency can find added guidance in the "U.S. Government Freight Transportation Handbook." This handbook is located at www.gsa.gov/transaudits.

§ 102-118.310 What does the GSA Transportation Audits Division consider when verifying an agency prepayment audit program?

GSA Transportation Audit Division bases verification of agency prepayment audit programs on objective cost-savings, paperwork reductions, current audit standards, and other positive improvements, as well as adherence to the guidelines listed in this part.

§ 102-118.315 How does my agency contact the GSA Transportation Audits Division?

Your agency may contact the GSA Transportation Audits Division at AskAudit@gsa.gov.

§ 102-118.320 What action should my agency take if the agency's transportation prepayment audits program changes?

(a) If your agency's transportation prepayment audit program changes in any way to include changes in prepayment auditors, your agency must submit the CFO-approved revised transportation prepayment audit program to GSA Transportation Audits Division via email at AskAudit@gsa.gov, Subject line: Agency PPA-Revised.

(b) If GSA determines the agency's approved plan is insufficient, GSA will contact the agency CFO to inform of the prepayment audit program deficiencies and request corrective action and resubmission to GSA Transportation Audits Division.

AGENCY CERTIFYING AND DISBURSING OFFICERS

§ 102-118.325 Does establishing an agency Chief Financial Officer-approved transportation prepayment audit program change the responsibilities of the certifying officers?

No, in a prepayment audit program, the official certifying a transportation voucher is held liable for verifying transportation rates, freight classifications, and other information provided on a transportation billing instrument or transportation request undergoing a prepayment audit (31 U.S.C. 3528).

§ 102-118.330 Does a transportation prepayment audit waiver change any liabilities of the certifying officer?

Yes, a certifying official is not personally liable for verifying transportation rates, freight classifications, or other information provided on a bill of lading or passenger transportation request when the Administrator of General Services or designee waives the prepayment audit requirement and your agency uses postpayment audits.

§ 102-118.335 What relief from liability is available for the certifying official under a transportation postpayment audit?

The agency counsel relieves a certifying official from liability for transportation overpayments in cases where postpayment is the approved method of auditing; and

(a) The overpayment occurred solely because the administrative review before payment did not verify transportation rates; and

(b) The overpayment was the result of using improper transportation rates or freight classifications or the failure to deduct the correct amount under a land grant law or agreement.

§ 102-118.340 Do the requirements of a transportation prepayment audit change the disbursing official's liability for overpayment?

No, the disbursing official has a liability for overpayments on all transportation bills subject to prepayment audit (31 U.S.C. 3322).

§ 102-118.345 Where does relief from transportation prepayment audit liability for certifying, accountable, and disbursing officers reside in my agency?

Your agency's counsel has the authority to relieve liability and give advance opinions on liability issues to

certifying, accountable, and disbursing officers (31 U.S.C. 3527) .

EXEMPTIONS AND SUSPENSIONS OF THE MANDATORY TRANSPORTATION PREPAYMENT

AUDIT PROGRAM

§ 102-118.350 What agency has the authority to grant an exemption from the transportation prepayment audit requirement?

Only the Administrator of General Services or their designee has the authority to grant an exemption for a specific time period from the prepayment audit requirement. The Administrator may exempt bills, a particular mode or modes of transportation, or an agency or subagency from a prepayment audit and verification and in lieu thereof require a postpayment audit, based on cost effectiveness, public interest, or other factors the Administrator considers appropriate (31 U.S.C. 3726 (a)(2)) .

§ 102-118.355 How does my agency apply for an exemption from a transportation prepayment audit requirement?

Your agency must submit a request for an exemption from the requirement to perform transportation prepayment audits by email to GSA-OGP-Transportationpolicy@gsa.gov, Subject Line: Prepayment Audit Exemption Request. The agency exemption request must explain in detail why the request is submitted based on cost effectiveness, public

interest, or other factors the Administrator considers appropriate, such as transportation modes, dollar thresholds, adversely affecting the agency's mission, or is not feasible (31 U.S.C. 3726 (a)(2)).

§ 102-118.360 How long will GSA take to respond to an exemption request from a transportation prepayment audit requirement?

GSA will respond to the exemption from the transportation prepayment audit requirement request within 180 calendar days from the date of receipt.

§ 102-118.365 Can my agency renew an exemption from the transportation prepayment audit requirements?

Your agency exemption to the transportation prepayment audit requirements does not exceed the period granted in the GSA issued exemption letter. If your agency determines that it will desire another exemption for the transportation prepayment audit requirements, your agency must submit this request a minimum of six months before the current exemption period expires.

§ 102-118.370 Are my agency's prepayment audited transportation documentation subject to periodic postpayment audit oversight from the GSA Transportation Audits Division?

Yes, all your agency's prepayment audited transportation documents are subject to the GSA Transportation Audits Division postpayment audit oversight. Upon request, GSA Transportation Audits Division will provide a report analyzing your agency's prepayment audit program.

§ 102-118.375 Can GSA suspend my agency's transportation prepayment audit program?

(a) Yes, the Director of the GSA Transportation Audits Division may suspend your agency's transportation prepayment audit program until the agency corrects their prepayment audit program deficiencies. This suspension may be in whole or in part. If GSA suspends your agency's transportation prepayment audit and GSA assumes responsibility for auditing an agencies prepayment audit program, the agency will reimburse GSA for the expense.

(b) This suspension determination is based on identification of a systematic or frequent failure of the agency's transportation prepayment audit program to—

(1) Conduct a prepayment audit of your agency's transportation bills;

(2) Abide by the terms of the Prompt Payment Act (31 U.S.C. 3901, et seq.);

(c) Adjudicate TSP claims disputing prepayment audit positions of the agency regularly within 30 calendar days of receipt;

(d) Follow Comptroller General decisions, Civilian Board of Contract Appeals decisions, the Federal Management Regulation and GSA instructions or precedents about substantive and procedure matters; and/or

(e) Provide information and data or to cooperate with on-site inspections necessary to conduct a quality assurance review.

10. Revise Subpart E to read as follows:

Subpart E—Postpayment Transportation Audits

Sec.

102-118.400 What is a transportation postpayment audit?

102-118.405 Who conducts a transportation postpayment audit?

102-118.410 If agencies perform the mandatory transportation prepayment audit, will this eliminate the requirement for a transportation postpayment audit conducted by GSA?

102-118.415 Can the Administrator of General Services exempt the transportation postpayment audit requirement?

102-118.420 Is my agency allowed to perform a postpayment audit on our transportation documents?

102-118.425 Is my agency required to forward all transportation documents to the GSA Transportation Audits Division, and what information must be on these documents?

- 102-118.430 What is the process the GSA Transportation Audits Division employs to conduct a postpayment audit?
- 102-118.435 What are the transportation postpayment audit roles and responsibilities of the GSA Transportation Audits Division?
- 102-118.440 Does my agency pay for a transportation postpayment audit conducted by the GSA Transportation Audits Division?
- 102-118.445 How do I contact the GSA Transportation Audits Division?

Subpart E—Postpayment Transportation Audits

§ 102-118.400 What is a transportation postpayment audit?

Postpayment audit means an audit of transportation billing documents after payment to decide their validity, propriety, and conformity of rates with tariffs, quotations, agreements, contracts, or tenders. The audit may also include subsequent adjustments and collections actions taken against a transportation service provider (TSP) by the Government (31 U.S.C. 3726).

§ 102-118.405 Who conducts a transportation postpayment audit?

The Administrator of General Services (GSA) has a congressionally mandated responsibility under 31 U.S.C. 3726 to perform oversight on transportation bills. The GSA Transportation Audits Division accomplishes this oversight

by conducting postpayment audits of all agencies' transportation bills.

§ 102-118.410 If agencies perform the mandatory transportation prepayment audit, will this eliminate the requirement for a transportation postpayment audit conducted by GSA?

No, agency compliance to the mandatory transportation prepayment audit does not eliminate the requirement of the transportation postpayment audit conducted by GSA (31 U.S.C. 3726).

§ 102-118.415 Can the Administrator of General Services exempt the transportation postpayment audit requirement?

Yes, the Administrator of General Services or designee may exempt, for a specified time, an agency or subagency from the GSA transportation postpayment audit oversight requirements of this subpart. The Administrator can also exempt modes (31 U.S.C. 3726).

§ 102-118.420 Is my agency allowed to perform a postpayment audit on our transportation documents?

No, your agency may not perform a transportation postpayment audit unless specifically directed to do so by the Administrator in lieu of a prepayment audit. Whether such an exemption is granted or not, your agency must

forward all transportation documents (TD) to GSA for postpayment audit (see § 102-118.35 for definition of TD).

§ 102-118.425 Is my agency required to forward all transportation documents to GSA Transportation Audits Division, and what information must be on these documents?

(a) Yes, your agency must provide all TDs to GSA Transportation Audits Division (see § 102-118.35 for definition of TD).

(b) The following information must be annotated on all TDs and bills that have completed your agency's prepayment audit for submission to GSA Transportation Audits Division:

- (1) The date the bill was received from a TSP;
- (2) A TSP's bill number;
- (3) Your agency name;
- (4) A Document Reference Number (DRN);
- (5) Amount billed;
- (6) Date invoice was approved for payment;
- (7) Date and amount agency paid;
- (8) Payment location code number and office name;
- (9) Payment voucher number;
- (10) Complete contract, tender, or tariff authority, including item or section number;
- (11) The TSP's taxpayer identification number (TIN);

(12) The TSP's standard carrier alpha code (SCAC) or other agency unique identifier for the carrier such as the Department of Defense Activity Address Code (DODAC) number;

(13) The auditor's full name, email address, contact telephone number, and authorization code; and

(14) A copy of any statement of difference sent to the TSP.

(c) Your agency can find additional guidance in the "U.S. Government Freight Transportation Handbook." This handbook is located at www.gsa.gov/transaudits.

§ 102-118.430 What is the process the GSA Transportation Audits Division employs to conduct a postpayment audit?

The GSA Transportation Audits Division:

(a) Audits select TSP bills after payment;

(b) Audits select TSP bills before payment as needed to protect the Government's interest;

(c) Examines, settles, and adjusts accounts involving payment for transportation and related services for the account of agencies;

(d) Adjudicates and settles transportation claims by and against agencies;

(e) Offsets an overcharge by any TSP from an amount subsequently found to be due that TSP;

(f) Issues a Notice of Overcharge stating that a TSP owes a debt to the agency. This notice states the amount paid and the basis for the proper charge for the document reference number (DRN), and cites applicable contract, tariff, or tender, along with other data relied on to support the overcharge; and

(g) Issues a GSA Notice of Indebtedness when a TSP owes an ordinary debt to an agency. This notice states the basis for the debt, the TSP's rights, interest, penalty, and other results of nonpayment. The debt is due immediately and is subject to interest charges, penalties, and administrative cost under 31 U.S.C. 3717.

§ 102-118.435 What are the transportation postpayment audit roles and responsibilities of the GSA Transportation Audits Division?

(a) The GSA Transportation Audits Division role is to perform the oversight responsibility of transportation prepayment and postpayment granted to the Administrator. The GSA Transportation Audits Division will—

(1) Examine and analyze transportation documents and payments to discover their validity, relevance and conformity with tariffs, quotations, contracts, agreements, or tenders and make adjustments to protect the interest of an agency;

(2) Examine, adjudicate, and settle transportation claims by and against the agency;

(3) Collect from TSPs by refund, setoff, offset, or other means, the amounts determined to be due the agency;

(4) Adjust, terminate, or suspend debts due on TSP overcharges;

(5) Prepare reports to the Attorney General of the United States with recommendations about the legal and technical bases available for use in prosecuting or defending suits by or against an agency and provide technical, fiscal, and factual data from relevant records;

(6) Provide transportation specialists and lawyers to serve as expert witnesses; assist in pretrial conferences; draft pleadings, orders, and briefs; and participate as requested in connection with transportation suits by or against an agency;

(7) Review agency policies, programs, and procedures to determine their adequacy and effectiveness in the audit of freight or passenger transportation payments, and review related fiscal and transportation practices;

(8) Furnish information on rates, fares, routes, and related technical data upon request;

(9) Inform an agency of irregular shipping routing practices, inadequate commodity descriptions, excessive

transportation cost authorizations, and unsound principles employed in traffic and transportation management; and

(10) Confer with individual TSPs or related groups and associations presenting specific modes of transportation to resolve mutual problems concerning technical and accounting matters, and providing information on requirements.

(b) The Administrator of General Services may provide transportation audit and related technical assistance services, on a reimbursable basis, to any other agency. Such reimbursements may be credited to the appropriate revolving fund or appropriation from which the expenses were incurred (31 U.S.C. 3726 (j)).

§ 102-118.440 Does my agency pay for a transportation postpayment audit conducted by the GSA Transportation Audits Division?

The GSA Transportation Audits Division does not charge agencies a fee for conducting the transportation postpayment audit. Transportation postpayment audits expenses are financed from overpayments collected from the TSP's bills previously paid by the agency and similar type of refunds. However, if a postpayment audit is conducted in lieu of a prepayment audit at the request of an agency, or

if there are additional services required, GSA may charge the agency.

§ 102-118.445 How do I contact the GSA Transportation Audits Division?

You may contact the GSA Transportation Audits Division by email at AskAudits@gsa.gov.

[Billing Code 6820-14]

[FR Doc. 2015-24858 Filed: 9/30/2015 08:45 am; Publication Date: 10/1/2015]